

REMARKS

Claims 34-81 are pending. As discussed, independent Claim 34 has been revised to clearly refer to a polynucleotide encoding a polypeptide sequence that has methylene tetrahydrofolate reductase activity. Claims 46, 49 and 50 have been revised for clarity by indicating the host cells have been transformed with nucleic acids. As discussed, Claims 54 and 56 have been amended for clarity. Non-elected Claims 9-33 have been cancelled, however, new Claims 63-80 are now directed to the previously non-elected process for making L-amino acids. These claims find support in prior Claims 9-30. No new matter has been added. Accordingly, favorable consideration of this amendment is now respectfully requested.

The Applicants thank Examiner Hutson for the courteous and helpful discussion of November 16, 2004. Revisions to Claim 56 that would help address the prior art rejection were discussed, as were similar revisions to Claim 54. The Applicants pointed out that after the filing date of this application that an annotation error was found in SEQ ID NO: 1: the inventors subsequently identified a start codon at position 368 "ATG" instead of at position 299 "TTG". The start codon would encode the MET residue at position 24 in the amino acid depicted by SEQ ID NO: 2. Initiation at this start codon would result in a shorter polypeptide than presently shown by SEQ ID NO:2, however, it would not result in the frameshift mistranslation of any of the amino acids of SEQ ID NO: 2. Moreover, the polynucleotide sequence of SEQ ID NO: 1 inherently encodes a methylene tetrahydrofolate reductase which is a fragment of SEQ ID NO: 2 as now claimed by Claim 34. The Applicants thank Examiner Hutson for indicating that this new information is not considered pertinent to the current prosecution. No new matter has been added to the specification in light of this new information.

Claim Objections

Claims 37, 38, 45, 49 were objected to as depending from rejected Claim 34. The Applicants believe that this objection is moot in view of the amendments to Claim 34.

Rejections--35 U.S.C. 112, first paragraph

Claims 34-36, 39-44, 46-48 and 50-58 were rejected under 35 U.S.C. 112, first paragraph, as lacking adequate description or enablement. These rejections are moot in view of the amendment of independent Claim 34, which now is clearly directed to polynucleotides which encode polypeptides having methylene tetrahydrofolate reductase activity.

Rejection-35 U.S.C. 102(b)

Claims 56-58 were rejected under 35 U.S.C. 102(b) as being anticipated by Blanco et al., J. Bacteriol. 180:1586. The Applicants submit that this rejection is moot in view of the amendment of Claim 56 to specify that the fragment of SEQ ID NO: 1 encodes a polypeptide having methylene tetrahydrofolate reductase activity.

CONCLUSION

In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Thomas Cunningham".

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